

1 Hon. Ronald B. Leighton
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

9 FARAZ SALEEMI and SOB, LLC,)
10 v.) No. 10-05707 RBL
11 Plaintiffs,)
12 GOSH ENTERPRISES, INC.,) **ORDER GRANTING**
13 v.) **DEFENDANT'S MOTION TO**
Defendant.) **DISMISS PURSUANT TO FED.**
14) **R. CIV. P. 12(b)(3) AND 12(b)(6)**
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This matter is before the Court upon the motion of Defendant Gosh Enterprises, Inc. (“GEI”), for an order dismissing this action pursuant to Rules 12(b)(3) and 12(b)(6) [Dkt. #8]. The Plaintiff (Saleemi and SOB, together) is a franchisee which alleges various claims against the Defendant franchisor, all of which arise out of the franchise agreement. Some of the claims are under Washington’s Franchise Investment Protection Act (FIPA), Chapter 19.100 RCW. The franchise agreement included a forum selection provision (and a choice of law provision, both referencing Ohio) and an arbitration provision. Defendant’s Motion seeks to enforce these provisions, and asks the Court to dismiss this case without prejudice.

Plaintiff argues that because the defendant terminated the franchise agreement, its claims are not subject to arbitration, and that it is not bound to litigate in Ohio. It also argues that only “disputes” are even purportedly subject to the arbitration provision, and that it alleges a claim, not a dispute. Plaintiff argues that these provisions are in any event unconscionable and therefore unenforceable.

1 Plaintiff's arguments are not persuasive. The claims it asserts are a dispute, and
2 facially arise out of the franchise agreement it admits it signed. . Neither the choice of law or
3 venue provisions are procedurally or substantively unconscionable; they do not waive any
4 rights, and the plaintiff's inability to assert class claims is not relevant, as the Plaintiff does
5 not purport to do so.

6 IT IS THEREFORE ORDERED that the Defendant's Motion is GRANTED and this
7 case is DISMISSED WITHOUT PREJUDICE.

8 DATED this 10th day of December, 2010.

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10 RONALD B. LEIGHTON
11 UNITED STATES DISTRICT JUDGE